



CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 18, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0174

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 – Standards and Duties, POL-2. Employees Must Adhere to Laws, City Policy, and Department Policy	Not Sustained - Unfounded (Expedited)

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

Named Employee #1 (NE#1) and another officer arrested Community Member #1 (CM#1) for felony assault related to a domestic violence incident. CM#1 alleged that NE#1 inappropriately touched his genitalia during a search incident to arrest.

ADMINISTRATIVE NOTE:

This case was approved for Expedited Investigation. That means OPA, with the Office of Inspector General's (OIG) agreement, believed it could issue recommended findings based solely on its intake investigation without interviewing the named employee. As such, OPA did not interview NE#1 in this case.

On May 22, 2023, OIG certified OPA's investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

OPA received a complaint via Blue Team and opened an intake investigation. During its investigation, OPA reviewed the OPA complaint, computer-aided dispatch (CAD) call report, incident and supplement reports, and body-worn video (BWV).

On April 24, 2023, the Complainant—a sergeant—filed a complaint on behalf of CM#1. The Complainant wrote that he screened CM#1's arrest. CM#1 reported that after he was handcuffed, NE#1 searched him and inappropriately touched his genitals as NE#1 removed his wallet from his left front pocket.

On April 21, 2023, at 6:48 PM, CAD call remarks noted that the reporting party said her child's father was "beating her up." Witness Officer #1 (WO#1)—a responding officer—wrote an incident report. WO#1 wrote that CM#1 and Community Member #2 (CM#2)¹ got into a verbal altercation. WO#1 wrote that CM#1 alleged that CM#2 assaulted

¹ According to two responding officers who wrote supplement reports, CM#2 has a child in common with CM#1.



him, but officers saw no signs of assault on CM#1. WO#1 wrote that CM#2 alleged that CM#1 used a cane with a taser attached (taser-cane) to suffocate her and punched her face multiple times. WO#1 wrote that CM#2's face was swollen, and there was blood around her mouth. WO#1 wrote that officers arrested CM#1 for assault in the second degree. WO#1 wrote that CM#1 was booked into the King County Jail. Two other responding officers wrote supplement reports consistent with WO#1's incident report.

WO#1's incident report was consistent with the events captured on NE#1's BWV. In that BWV, NE#1 and Witness Officer #2 (WO#2) arrived outside the apartment. CM#1 was at the front entrance holding the taser-cane but dropped it as NE#1 approached. NE#1 told CM#1 he was detained while WO#2 handcuffed CM#1. NE#1 inspected the taser-cane. NE#1 and Witness Officer #3 (WO#3)--another responding officer--took an elevator to CM#2's apartment unit. CM#2 opened the door, was crying, and said CM#1 tried to choke her. NE#1 went back outside and Mirandized CM#1. WO#2 told CM#1 he was arrested for "DV assault." NE#1 and WO#2 escorted CM#1 to NE#1's patrol car.

NE#1 told CM#1 he was about to search him. NE#1 began the search at CM#1's chest area. NE#1 searched CM#1's right front pocket. NE#1 then searched CM#1's left front pocket. CM#1 said, "He [is] playing with my nuts. He [is] playing with my nuts and shit. Whoa, whoa." NE#1 replied, "No, I'm not. No, I'm not. I'm trying to get your damn wallet out, man. You know that." NE#1 said, "Search incident to arrest. You been arrested before in Seattle? Okay. So, maybe you have. Maybe you haven't. But, if you haven't, typically, basically every single time after we arrest somebody, we search them. So, no, I was not playing with your balls. I was getting your wallet out of your pocket." WO#2 was next to CM#1 during the search. WO#1 and WO#3 were not present during the search. CM#1 remained silent while NE#1 continued the search. NE#1 then transported CM#1 to the East Precinct.

The Complainant's BWV captured the Complainant speaking with CM#1 at the East Precinct. CM#1 said, "Sir, [NE#1] touched my genitals. But you ain't writing nothing down." The Complainant asked, "Were they grabbed or touched?" CM#1 replied, "[NE#1] grabbed them."

OPA attempted to contact CM#1 to schedule an interview, but OPA could not reach him.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 – Allegation #1

5.001 – Standards and Duties, POL-2. Employees Must Adhere to Laws, City Policy, and Department Policy

CM#1 alleged that NE#1 sexually assaulted him.

SPD Policy 5.001-POL-2 requires that employees adhere to laws, City policy, and Department policy.

Here, NE#1 searched CM#1's left front pocket and retrieved a wallet. During that search, CM#1 said, "He [is] playing with my nuts." NE#1 denied that allegation. The evidence indicates that NE#1 conducted a lawful search incident to arrest. NE#1's entire hand did not go inside CM#1's left front pocket. NE#1's fingers were inside CM#1's pocket for about six seconds before CM#1's wallet visibly surfaced at the pocket's opening. Notably, CM#1 did not physically react when NE#1's fingers were inside his pocket. NE#1 also searched CM#1 in front of WO#2, who did not appear to react to the alleged impropriety. The evidence does not indicate that NE#1 touched, grabbed, or played with CM#1's genitalia.



Accordingly, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

Recommended Finding: **Not Sustained - Unfounded (Expedited)**